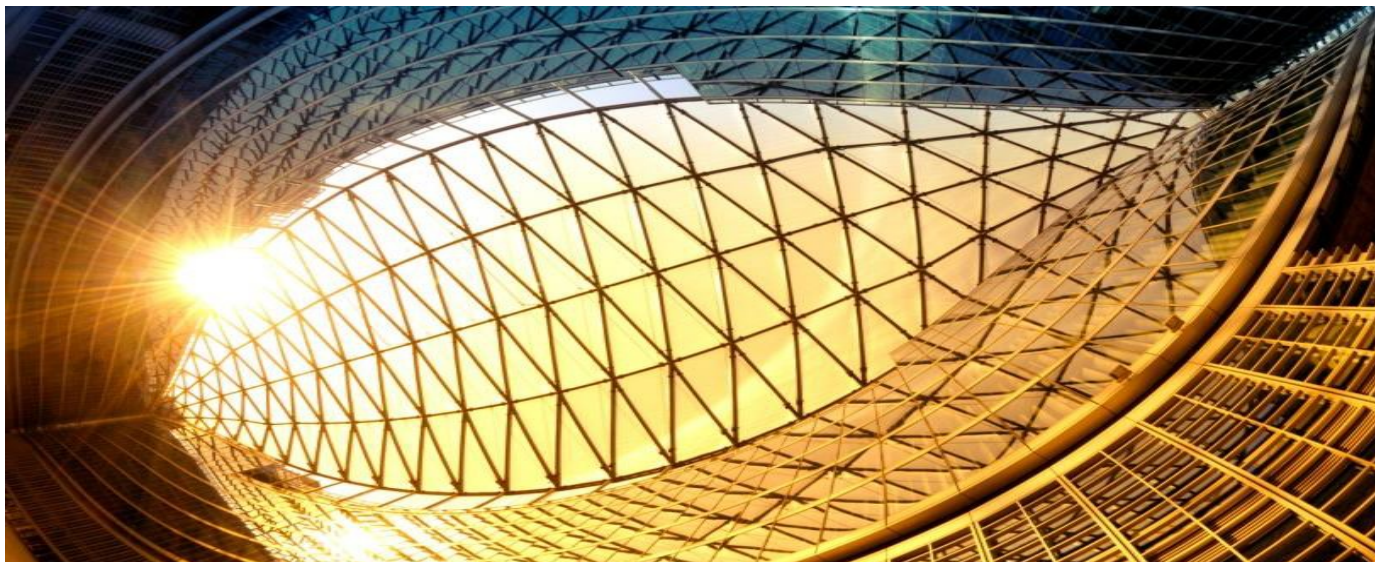


21 October 2015

Italy - New tax ruling system for Italy



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At the start of next year a new Italian tax ruling system will apply, following its recent overhaul by Legislative Decree no. 156 of 24 September 2015⁽¹⁾. Some of the changes to the tax ruling procedure are described below.

New classification

There is a new classification of tax rulings.

- *Interpello ordinario* – for interpretations of unclear tax rules.
- *Interpello qualificatorio* – for definitions of transactions that do not fit the definitions already given in tax law.
- *Interpello probatorio* – for confirmation that a taxpayer qualifies for certain tax benefits or tax regimes.
- *Interpello antiabuso* – for clarification as to whether one or more transactions fall within the scope of the abuse-of-law rule (see our [Tax Alert of 10 September](#)).
- *Interpello disapplicativo* – for the disapplication of specific anti-avoidance measures (e.g. measures to limit loss carryforwards of companies involved in a merger or demerger and prevent dividend washing).

These five categories will all be governed by article 11 of Law no. 212/2000. Therefore, with regard to the timing of applications (which have to be made in advance), eligibility to apply, investigation procedures and causes of inadmissibility, the five categories are all subject to the same rules.

Timing of applications and replies

Applying for a tax ruling in advance means submitting it before the deadline for filing a tax return or complying with other tax obligations queried in the application. However – and this marks a considerable change from the previous rules – the tax authorities may respond after this deadline.

⁽¹⁾ Legislative Decree no. 156 of 24 September 2015 was published in Ordinary Supplement no. 55 of issue no. 233 of the Official Gazette on 7 October 2015. It will come into force on 22 October 2015 but the new rules will apply from 1 January 2016.

Depending on the type of application, the tax authorities must respond to a ruling application within a certain number of days.

- 90 days for an *interpello ordinario* and an *interpello qualificatorio*
- 120 days for all other types of ruling.

In all cases, however, if the tax authorities require additional documentation from the taxpayer, they have an extra 60 days to respond.

Regardless of the category, if the tax authorities do not issue a tax ruling within the time limit, this means that they agree with the taxpayer's interpretation of the rules.

Mandatory and non-mandatory tax rulings

It is only mandatory for a taxpayer to obtain a tax ruling when it intends to disapply anti-avoidance measures (the *interpello disapplicativo* ruling).

It is no longer mandatory for a taxpayer to obtain a tax ruling in order to prove that it satisfies safe-harbour conditions and can therefore disregard CFC rules (an *interpello probatorio*). Taxpayers are now free to demonstrate that they satisfy safe-harbour conditions during an audit or other assessment procedure (see our Tax Alert of 23 September).

However, the distinction between mandatory and non-mandatory tax rulings is not entirely clear in the new rules. On the one hand, for example, taxpayers wishing to disapply measures must submit a 'mandatory' application for an *interpello disapplicativo*; on the other hand, they may disregard the ruling if it goes against them and subsequently defend their position during an audit, other assessment, or litigation. The tax authorities are expected to clarify this issue shortly.

The local directors of the Revenue Agency will issue implementation measures.

Contact us

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